

# **RESPONSIBILITIES OF FEDERAL AGENCIES UNDER SECTION 7(a) and (c) OF THE ENDANGERED SPECIES ACT**

## **SECTION 7(a) Consultation/Conference**

Section 7(a) of the Act requires:

1. Federal agencies to utilize their authorities to carry out programs to conserve endangered and threatened species;
2. Consultation with the U.S. Fish and Wildlife Service (Service) when a Federal action may affect a listed endangered or threatened species or designated critical habitat to insure that any action authorized, funded or carried out by a Federal agency is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of designated critical habitat. The process is initiated by the Federal agency after it has determined if its action may affect a listed species; and
3. Conference with the Service when a Federal action is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat.

## **SECTION 7(c) Preparation of a Biological Assessment**

Section 7(c) of the Act requires Federal agencies or their designees to prepare a Biological Assessment (BA) for construction projects.<sup>1</sup> For actions that are not construction projects, we recommend that a biological evaluation similar to a BA be prepared to evaluate the effects of the proposed project on listed and proposed species and critical habitats. The purpose of the BA or biological evaluation is to identify listed and proposed species which are likely to be affected by a proposed project. The process is initiated by a Federal agency by requesting a list of threatened and endangered species and critical habitats. The BA or biological evaluation should be completed within 180 days after its initiation (or within such a time period as is mutually agreeable). If the BA is not initiated within 90 days of receipt of the species list, the accuracy of the species list should be informally verified with the Service. No irreversible commitment of resources is to be made during the preparation of the BA which would foreclose reasonable and prudent alternatives to jeopardy to listed species. Planning, design, and administrative actions may be taken; however, no construction may begin.

A biological assessment or biological evaluation should include the following information:

### **1. Description of proposed action (project).**

Describe the following and attach any relevant maps, diagrams, or designs;

- **Who** is proposing the action?
- **Where** is the action? Be as specific as possible. Include maps, county, township, range, stream, and any other pertinent information.
- **What** is the proposed action? Describe what is planned, the objectives of the action, include designs, diagrams, and best management practices applied, etc.
- **How** is the action going to be implemented? Give specific details, such as what type of equipment is used, how the action area will be accessed, etc.

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<sup>1</sup> A construction project (or other undertaking having similar physical impacts) is a major Federal action significantly affecting the quality of the human environment as referred to in NEPA (42 U.S.C. 4332. (2)c).

- **When** will the action be implemented?

## **2. Description of listed and proposed species and critical habitat, status, distribution and habitat use by the species in the project area.**

Identify which listed, proposed and candidate species and critical habitats may potentially be affected (beneficially or adversely) by the action. Describe how the species use the project area. Assistance with this information can be obtained from local offices of the Service.

## **3. Description of the action area.**

Describe all areas affected by the proposed project. The action area refers to the area directly or indirectly affected by the proposed action; this area will usually be larger than the project footprint. Include on-site inspection or survey data, views of recognized experts (e.g., State fish and wildlife agency biologists), and literature reviews.

## **4. Effects of the proposed action on listed and proposed species and designated or proposed critical habitat.**

Describe in detail the effects of the action on the species and their habitats including direct and indirect effects, as well as effects that are interrelated and interdependent effects. Summarize your analysis of all project effects.

## **5. Description of measures to minimize effects to listed species, and proposed project monitoring.**

Describe methods to be used to avoid, minimize and correct adverse short and long-term effects. Describe what will be monitored, who will monitor and the frequency of monitoring.

## **6. Determination of effect.**

Clearly state your final effects determination for each listed and proposed species and designated and proposed critical habitat. Effects determinations may be:

- no effect
- may affect, not likely to adversely affect (appropriate for actions that have only beneficial, insignificant, or discountable effects)
- may affect, likely to adversely affect (appropriate for actions with effects to listed species or designated critical habitat that are not entirely insignificant, discountable or wholly beneficial)

## **7. Attachments.**

Attachments should include all relevant information supporting the above categories such as maps, project design, drawings, specifications, pollution control plan, photos of project site and adjacent area, site survey data, and literature cited.

For more information on consultation under section 7 of the Endangered Species Act, visit the Service's national consultation website at <http://www.fws.gov/endangered/what-we-do/consultations-overview.html>.